REMARKS

This preliminary amendment is responsive to the final Office Action dated March 18, 2003. Applicant respectfully submits this preliminary amendment with the Request for Continued Examination and requests the Examiner to reconsider this application in view of the amendments to the claims and arguments urged below.

In paragraph 2 of the final Office Action, the Examiner rejected claims 52-57 and 60-85 under 35 U.S.C. § 102(b) as being anticipated by the patent to Barger. The Examiner points to column 9, lines 36-42; column 11, lines 18-23, and column 5, lines 30-37 in Barger, indicating that *"Barger provides for a push-button telephone customer keying in a customer account number in response to an instruction prompt...and for displaying at an operator's display all of the data for that customer's call...which would necessarily include the customer's account number."*

Applicant respectfully submits that the claims clearly require the steps of prompting a caller for a customer identification number, which is provided by an individual caller as responsive signals via the digital input device. In Barger, it is *"the operator"* that *"elicits from the customer identification data such as name, address, and account or credit card number."* It is *"the operator"* that *"keys the identification data into the data processor through terminal 19 for credit verification and asks the customer what may be done for the customer."* To hear a particular demonstration requested by the caller, the caller is switched to an appropriate audio program repeater channel for the requested demonstration. When the requested demonstration has been completed, the data processor is interrupted by the audio program repeater. The data processor then disconnects the audio program repeater from the customer's line and switches it back to the operator. *"The operator readily picks up the transaction with the customer through a video display presented to the operator by the data processor which includes all of the data for that customer's call including any historical and credit verification data, which the processor has recovered from memory using the customer's account or credit card number."* Accordingly, even if the Examiner takes the leap that the *"video display presented to the operator"* in Barger must include the "customer identification number," it is not entered by the individual callers via a digital input device. Accordingly, Applicant respectfully submits that Barger does not meet all

the limitations of the claimed combinations. For example, claim 22 also requires recording of the caller number identification signals from the communication facility as additional data for the individual caller.

In paragraph 4 of the Office Action, the Examiner rejected claims 58 and 59, under 35 U.S.C. § 103(a) over Barger and the Examiner taking official notice regarding merchandise ordering. Claims 58 and 59 depend on claim 57 and should be allowable by virtue of their dependency on claim 57, which has been distinguished above. Also, Applicant requests the Examiner, if possible, to cite a specific reference to support the indication of the *"official notice,"* to allow the Applicant to consider if the combination asserted by the Examiner is appropriate.

In paragraph 5 of the Office Action, claims 22-51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Szlam, et al., in view of Barger. The Examiner contends that the Szlam patent differs from claims 22-51 in that it does not specify testing for approval. The Examiner takes the position that Szlam is directed to a customer account servicing system which allows for sales transactions (placing an order from a catalog or advertisement) and Barger teaches the desirability of testing a customer identification number (customer's account or credit card number is verified) such that it would have been obvious to incorporate such testing, as taught by Barger, within the system of Szlam. Applicant respectfully submits that the claims at issue also require that customer identification number entered by the caller be displayed on the operator's terminal. As pointed out above, in Barger, the caller communicates with an operator and it is the operator that *"elicits"* information from the caller including the customer identification number for the caller and enters it on the caller's behalf. Accordingly, the claims here are distinct.

Regarding claims 23, 25-27, and 31-32, the Examiner takes the position that Barger teaches limiting use and recognizing a first-time caller. Also, regarding claims 40-43, the Examiner takes the position that Szlam provides for storing audio signals for later playback to an operator for entry into a database. These rejected claims depend from the claims that are already distinguished above.

Applicant has also made cosmetic amendments to the claims to further refine them.

Favorable consideration and allowance of the claims pending here is respectfully requested.

Respectfully submitted,

Dated: September 18, 2003   By: _____
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